THE HON'BLE SRI JUSTICE R.SUBHASH REDDY

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WRIT PETITION No. 4591 of 2006

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Dated: 14.03.2006

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Between:

B.Govinda Rao S/o Demudu,

R/o D.No.13-171, RRV Puram,

Gopalapatnam, Visakhapatnam Distrcit.

… **PETITIONER**

And:

The Collector and District Magistrate,

Visakhapatnam and others.

… **RESPONDENTS**

THE HON'BLE SRI JUSTICE R.SUBHASH REDDY

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WRIT PETITION No. 4591 of 2006

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ORDER:

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Petitioner, who is presently working as an operator-cum-mechanic in the third respondent-Visakhapatnam Steel Plant, filed this writ petition questioning the order of the Collector and District Magistrate, Visakhapatnam, (first respondent) dated 27.12.2005, by which the first respondent has cancelled the caste certificate issued to the petitioner, in exercise of powers under the Andhra Pradesh (Scheduled Castes, Scheduled Tries and Backward Classes) Regulation of Issue of Community Certificates Act, 1993 (for short "the Act").

It is the case of the petitioner that he belongs to Bagata Community, which is notified as Scheduled Tribe as per the Presidential Order, and in all his school records, his Community was mentioned as Bagata. However, the first respondent has passed the impugned order, based on the *ex parte* report of the Mandal Revenue Officer, Hukumpeta. The impugned order and the consequential show cause notice issued by the third respondent are questioned on several grounds, mainly on the ground that the impugned order is in violation of principles of natural justice. It is his further case that inasmuch as the impugned order was not published in gazette, as required under law, the petitioner cannot avail the remedy of appeal to the Government, as provided under the Act.

When the matter has come up earlier, the learned Government Pleader took time to get instructions and today he has categorically submitted that the impugned order is published in the Andhra Pradesh Gazette on 09.02.2006. Though several grounds are raised questioning the validity of the impugned order, as there is a remedy of appeal to the Government under the Act, there is no specific reason to allow the petitioner to bypass such remedy, which is provided under the Statute.

In that view of the matter, I dispose of the writ petition granting liberty to the petitioner to file an appeal against the impugned order within a period of four weeks from today. If such appeal is preferred, the appellate authority shall consider the same and pass appropriate orders on merits, as per the procedure contemplated under the provisions of the Act and the Rules made thereunder.

However, it is to be noticed that the petitioner is a displaced person and he initially joined as a casual khalasi on 18.12.1990, and subsequently was appointed as operator-cum-mechanic and his services were regularized as early as on 02.05.1993 and he is being continued as such. In that view of the mater, taking into account the fact that a remedy of appeal is available and further he is in service for more than 10 years, I deem it appropriate to suspend the impugned order till the disposal of the appeal to be preferred by the petitioner. However, it is made clear that if the appeal is not filed within the time stipulated above, it is open for the

respondents to proceed with the matter in accordance with law.

Subject to the above observations, the writ petition is disposed of. There shall be no order as to costs.

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14.03.2006

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